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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,264	06/27/2001	Ludo Gys	Q64971	1632

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EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/891,264

Applicant(s)

GYS, LUDO

Examiner

Dohm Chankong

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-11.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

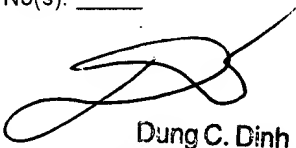
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


Dung C. Dinh
Primary Examiner

RD

DETAILED ACTION

- 1> This action is a continuation of the advisory action and provides Examiner's reasons why the claims are rejected.
- 2> Proposed amendments are merely cosmetic and do not alter or change the scope of the claim.

Response to Arguments

- 3> Applicant's arguments filed 7.25.2005 have been fully considered but they are not persuasive.

What follows will first be a mapping of the Yates and Beck reference towards the elements of the first claim to provide a clearer basis for Examiner's position. Examiner will then address the points raised by Applicant in his remarks.

Yates is directed towards a service provisioning system with a goal of providing flexibility and extendibility so that services can be updated and new services can be implemented as necessary. Yates sets about accomplishing his goal by providing configurable agents that can be modified using concepts borrowed from the object-oriented paradigm. Agents are comprised of or have access to modules, each module, or combination of modules providing the desired set of services [see for example, column 1 «lines 56-64» | column 2 «line 57» to column 3 «line 23»]. Yates therefore is directed towards a method for providing personal services for a communication means of a user, said means being connected to a

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network. In Yates, the “customers” or “applications” in Figure 1 correspond to a communication means of the user.

The modules are essentially building blocks for each particular service. The modules comprise executable code or programs that can be obtained by, for example, the terminal agent. The terminal agent corresponds to claimed service computer and the code corresponding to a “service machine”. When an agent, or service computer, desires services, it obtains a service container, or module and executes the service machine, or code to acquire the necessary service functionality.

Yates also provides interfaces to insure compatibility of the various modules and the terminal agent (and other agents) [column 6 «lines 38-45»]. Here, Yates interfaces correspond to claimed “network lock”. The interfaces in Yates provide the modules the predefined interface (see for example, Yates’ use of an API) [column 9 «lines 1-7» | column 10 «lines 1-17»] to communicate over the network and enable the modules to provide services and functionality desired by the agent.

In regards to the last limitation of claim 1, Yates also disclose the provision of the personal service by execution of a service component that is transmitted to the service computer via the service container. Examiner’s interpretation of this limitation is that the service container is responsible for obtaining and executing the service component, the service component providing the actual functionality of the service. Examiner believes that Yates’ policies are analogous to the claimed service component. After a module and its code has been established on the terminal agent, the module’s operations are governed by the use of the policies (policies either part of or external to the module) [column 17 «lines 42-48»].

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Execution of the policies ("service component") by the modules ("service container") essentially provides the service to the agent ("service computer") [column 17 «line 61» to column 18 «line 8»].

As discussed in the previous action, Yates did not expressly disclose a service server or the transmission of the service container by the server to the service computer. However, as should be clear from Yates specification, the modules ("service container") are made available to the agents ("service computer"). So while not expressly disclosing transmission of the modules, it is obvious to one ordinary skill in the art that there is some means for the agents to retrieve the modules over the network.

To this end, Beck was used to further disclose that such functionality is well known in the art. Beck discloses that a computer can download the necessary programs from a server to run a desired service [see Beck, column 6 «lines 13-16»]. Therefore, Examiner believed it to be an obvious enhancement of Yates to incorporate the concept of a server to transmit Yates' modules to the agents. This functionality is further suggested by Yates himself who utilizes a policies store so that the modules can obtain new and updated policies [see Yates, column 11 «lines 27-30»].

Applicant addresses four reasons why the rejections based on the combination of Yates and Beck is improper. First, Applicant had asserted in his remarks, dated 3.14.2005, that the references can not be combined because they are directed towards solving different problems. Applicant further asserts that Beck is directed towards sharing service

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implementations between devices having similar modules and argues that Yates' "terminal and terminal domain are very different", and as such, there is no reason to combine.

It should be noted that Applicant is applying a rather narrow view towards Beck's embodiment and ignores Beck's stated goal of providing "mobile and non-mobile devices" the ability to discover and use services [column 2 «lines 47-50» | column 8 «lines 9-15»]. Beck merely uses the two mobile devices as an example and is in no way limiting his system to merely mobile, or "similar" devices. The principal goal of Beck is in line with Yates: to provide services to devices in a dynamic and flexible manner [see Yates, column 6 «lines 60-61» and Beck, column 2 «lines 1-3»]. They both achieve this by enabling devices to download the necessary objects and programs as needed.

Applicant further asserts that Yates and Beck are different because Yates downloads adapters for the reconfiguration of hardware and software in agents, while Beck discloses transferring "server implementation, instead of the constituting parts of the device". In Yates, the agents are "reconfigured" in the sense that they can now provide updated or completely new functionality based on the modules and associated policies that are obtained by the agents. This functionality is quite analogous to Beck's downloading of "an interface, an implementation, and an adapter" that in a sense also "reconfigure" the computer that is downloading the them; the computer after executing the downloaded objects is now configured to run the desired service. The main difference is that Beck discloses transmission of these necessary objects to the requesting devices; this functionality is suggested and obvious in Yates and Beck further teaches its usefulness.

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Second, Applicant is arguing that Beck discloses passing implementations between devices having similar modules and this functionality cannot be put upon Yates because “the terminal and terminal domain are very different”. Thus, their combination would change the principle of operation of the references. As discussed, Examiner believes that Beck and Yates are directed towards analogous goals and implementations. Beck does not merely disclose passing similar modules between devices but is directed towards both mobile and non-mobile computing devices. Yates would not be altered or changed in any way that would contradict his current teachings. Beck’s teaching of transmitting service containers supplements what is already suggested by Yates (the modules are made available to agents) in a beneficial way and improves on Yates’ goal of providing extendibility to a service provisioning system.

Third, Applicant argues that Yates fails to teach a service component, asserting that “the code and SIBB of Yates, constituting parts of the agents, are not included in the policies”. Examiner does not see the relevance of whether or not the code is included in the policies. According to the claim, the service component is transmitted via the service container. As discussed in the claim mapping, Yates’ use of the modules are analogous to a service container, and the policies are obtained by the modules to provide the functionality of the desired services. The code and SIBBs are analogous to claimed “service machine” and based on the claim language, do not interact with the service component.

Fourth, Applicant reasserts his position concerning the incompatibility of Beck and Yates, pointing again to fact that Beck only involves transmission of containers between similar devices. As discussed, Examiner believes this to be an inaccurate interpretation of Beck. Further, the combination of Yates and Beck clearly disclose the “three different parties:

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service server, the service computer and the communication means" of the claimed invention. Yates discloses the service computer (agent) and the communication means that enable modules (service container) and policies (service component) to be obtained by agents. Beck was used to supplement Yates by expressly disclosing the use of a server to transmit the required containers and components to the agents.

In view of the preceding remarks, Examiner believes the rejections to be proper and maintains the rejections of claims 1-11.

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Dung C. Dinh
Primary Examiner